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BEFORE THE FEDERAL ELECTION COMMISSION

2012 MAR 29 AM 11:33

OFFICE OF GENERAL
COUNSEL

JAN SCHNEIDER

Sarasota, Florida 34236,

Complainant,

v.

MUR No.

6546

MICHAEL J. FOX

Sarasota, Florida 34236

and

FOX 41, LLC

Sarasota, Florida 34236

Registered Agent:

Timothy S. Shaw

50 Central Avenue, Suite 700

Sarasota, Florida 34236

Respondents.

SENSITIVE

2012 APR -4 A 11:12

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

COMPLAINT

This Complaint concerns a giant outdoor advertising sign emblazoned with "Defeat Obama in 2012" erected at a major intersection in Sarasota, Florida. This sign, touted as the first of 10,000 to go up throughout the country, is attracting national attention. The sign has no disclaimer as required by federal law.

PARTIES

1. Complainant Jan Schneider, whose present address is set forth above, regularly votes in federal elections.

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2. Respondent Michael J. Fox (hereinafter "Fox"), whose address is set forth above, is a local investor in Sarasota, Florida, with claimed close ties to brothers Charles and David Koch. Mr. Fox is the sole manager/member of Respondent Fox 41, LLC.

3. Respondent Fox 41, LLC ("Fox LLC"), whose principal place of business is indicated above, is a limited liability company formed under the law of the State of Florida on January 5, 2012.

FACTS

4. On or about January 12, 2012, Respondent Fox LLC purchased a commercial property located at 50 N. Tamiami Trail, Sarasota, Florida 34236. This property has frontage on the highly-traveled Tamiami Trail, U.S. Route 41, near a major intersection.

5. Shortly after the purchase, Respondent Fox and/or Respondent Fox LLC erected on the property a large, double-sided sign containing an electioneering communication. Both sides of the sign state in big, bold, red letters "Defeat Obama in 2012." Attached hereto as Exhibit A is a picture of the sign from a local publication, "First of 10,000 Defeat Obama Signs Installed," SRQ Times, Mar. 7, 2012. The sign is on a very tall post close to the roadside, and one side or the other is readily visible to traffic in both directions on Route 41 and from side streets.

6. Besides the message quoted in paragraph 5 above, the sign contains no other information on either side. In particular, it fails to indicate (a) whether or not this electioneering communication is authorized by a candidate, an authorized committee of a candidate or an agent of either; or (b) who paid for the sign.

7. A representative of Respondent Fox LLC has indicated to local news sources that Respondent Fox had the "Defeat Obama in 2012" sign hung because "he believes that President Barack Obama and the current administration is subverting the Constitution." The same representative has also reportedly stated that this is the first of 10,000 such signs that Respondent

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Fox hopes will be erected throughout the country before Independence Day and further that Respondent Fox has established a fund to offset the costs of the signs. See Exh. A supra.

LAW

8. The Federal Election Campaign Act, Pub. L. 92-225, 108 Stat. 86 Stat. 3, 2 U.S.C. § 431 *et seq.*, as amended by the Bipartisan Campaign Reform Act of 2002 ("McCain-Feingold Act"), Pub. L. 107-155, 116 Stat. 81, regulates financing of federal election campaigns, including through disclosure, disclaimer and reporting requirements. Section 441d, known as the disclaimer provision, deals with publication and distribution of statements and solicitations. Subsection (a) of § 441d requires that whenever "any person" makes a dissemination "for the purpose of financing communications expressly advocating the election *or defeat* of a *clearly identified candidate*" (emphasis added), such communication must meet certain conditions.

These include:

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

Subsection (d) adds further specifications, including that: the statement must be in a clearly readable type size; it must be contained in a printed box set apart from the rest of the contents of the communication; and it must be printed with a reasonable degree of color contrast from the background. See also 11 C.F.R. § 110.11.

9. The disclaimer requirements of § 441d were specifically upheld as applied in *Citizens United v. Federal Election Comm'n*, 130 S.Ct. 876, 914-16 (2010). The Supreme Court found that disclaimers help insure that voters are informed about the sources of electioneering communications in order to be able to evaluate the arguments to which they are being subjected.

10. The "Defeat Obama in 2012" sign fails to comply with the statutory requirements for electioneering communications and implementing provisions in the Code of Federal Regulations.

Whatever their views on a federal candidate (in this case, obviously, President Barack Obama), voters have a right to know who authorized and/or paid for an electioneering communication in order better to evaluate the message.

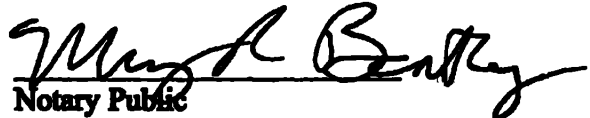
WHEREFORE, Complainant respectfully requests that the Federal Election Commission investigate the apparent violation of federal campaign finance law that has occurred with respect to the electioneering communication on Tamiami Trail in Sarasota, Florida, identified above and to the reputed 9,999 additional violations reportedly about to occur around the country.

Respectfully submitted,


Jan Schneider

STATE OF FLORIDA)
) SS:
COUNTY OF SARASOTA)

Signed and sworn to before me this 19th day of March 2012 by Jan Schneider, who is personally known to me.


Notary Public



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WHAT ARE YOU LOOKING FOR?

<http://www.srqtimes.com/first-of-10000-defeat-obama-signs-installed>

First of 10,000 Defeat Obama Signs Installed

On Wednesday, March 7th, 2012

Towering high up in the sky, emblazoned with graphic red letters is a brand new sign greeting visitors and residents as they approach the intersection of Thimble and John Ringling Boulevard. It reads: "Defeat Obama in 2012."

Installed on private property at 50 N. Thimble Trail new building owner Michael Fox of Fox 41 LLC has clearly expressed his right to free speech in one of the most visible areas in Sarasota.

The building is marked with an ion black reality auto/lease sign and black was unavailable for comment but his agent, Scott Horne, said that ion black reality, "has nothing to do with the sign."

A representative for Fox 41 LLC, Bob Willis, called and said that the sign was installed by Fox LLC and seven news organizations, including the Wall Street Journal, had contacted him today. Fox is out of the country and not available for comment. However, Fox gave Willis permission to speak on his behalf, according to Willis.

He said Fox had the sign hung because "he believes that President Barack Obama and the current administration is subverting the Constitution."

A local investor and clothing store owner, Fox purchased the property at 50 N. Thimble Trail, formerly known as the "conversion building", earlier this year.

Willis stressed several times that the sign is intended to be an anti-Obama statement and not an endorsement of any person running for office or any political party.

Willis said that this is the first of 10,000 signs Fox hopes will be erected throughout the country before Independence Day in people's front yards and businesses, on their private property.

He said Fox believes it is important for people to exercise their right to free speech and has established a fund to offset costs.



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ARCHIVE

March 2012

February 2012

January 2012

December 2011

November 2011

October 2011

September 2011

August 2011

July 2011

June 2011

May 2011

December 2010

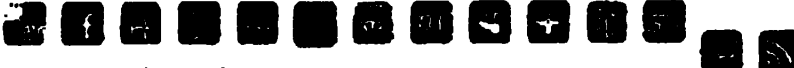
August 2010



About SRQ Blogger

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Exhibit A

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